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May 22, 2008

The Honorable Margaret Spellings
Secretary, U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Secretary Spellings:

I am responding to the request for comment in the current Notice of Proposed Rulemaking related to the Elementary and Secondary Education Act/No Child Left Behind issued by your Department on April 22, 2008. Like you, I am disappointed that Congressional reauthorization of the Act has not progressed this year. Therefore, many of the issues related to the law in need of attention cannot be properly addressed through administrative rule. However, it is important that the conversations continue through appropriate channels to improve support to our students. Review of the proposed rules has raised some specific concerns: increased administrative burden to local school districts; provision of accurate information to parents; recognition of all students graduating from high school; increased monitoring responsibilities of private supplemental service providers; and, the increased cost of implementing the proposed rules.

The greater administrative burden attendant to the proposed rules - without the proper balancing factor of additional programmatic flexibility or support – is problematic. For instance, states are required to resubmit their accountability workbooks related to the creation of additional student groups that would be tracked for AYP (adequate yearly progress) purposes. This is not a simple data collection task, but one that requires additional work by testing professionals to address related confidence intervals and definitions and other related issues. Educators in Washington State are working hard to be sure that all students are moving successfully to meet standards. The result of the proposed rule will not support teachers in this work, but will take time and resources from services to students to meet these new administrative requirements.

I am concerned about the accuracy of the information communicated to parents if National Assessment of Educational Progress (NAEP) scores are reported along with state assessment scores on district level report cards. The NAEP does not assess the same content as state assessments and does not assess all students. (NAEP uses a sample of students and does not include students from all districts in the sample. And, where NAEP does conduct a sample, as a general rule, specific district level data is not reported.) The result will be confusion for parents, not a tool to assess how their school system is doing.

There are several implementation issues within the proposal rules related to graduation rates, although I focus on just two:

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In a standards-based system the goal is meeting the standard, not the date by which the standards are met. It should not be necessary to use an appeal procedure to recognize the graduation achievement of students who take longer to meet the standard. It should be very appropriate for schools, districts and states to report both four-year and extended-year graduation rate information. Students, their families, teachers, support staff and others work hard to help students accomplish graduation. The proposed rule makes the work of those for whom it took longer seem a lesser accomplishment when in fact it may have taken much more effort.

The disaggregation of graduation rates by various student subgroups and the requirement for each subgroup to meet AYP will mean that more schools will not be successful when this provision is coupled with the one above. The Washington State Board of Education is considering substantially more rigorous graduation requirements. There is nothing in this rule that would recognize requirement changes or that will assist students in meeting them.

The proposed rules misdirect resources to monitor tutoring and support services provided by those outside of the public education system. Specifically, it is proposed that the supplemental educational services (SES) providers be examined to determine if their instructional strategies and curriculum content are aligned with state standards. This proposal signals concern with private providers and diverts funds from service to students to monitoring of private business. As a general principle, if SES resources were used within the school system, it would not be necessary to consider this rule.

Finally, I understand that the fiscal impacts calculated by the Department mean the proposed rules would require almost \$21 million of additional expenses to local school districts across the country and over \$1.5 million to state education agencies. The local school districts in my state are working hard to serve their students. I could not possibly ask that they take on additional administrative expenses through the adoption of the proposed rule.

Washington State is fortunate to have hard working educators who are providing rigorous learning opportunities for our students while continuing to close the achievement gap and help all students reach higher. The role of NCLB in this work needs to be addressed by Congressional reauthorization. Only through reauthorization can the central concerns with NCLB be addressed, specifically: appropriate assessments for English language learners and special education students; an accountability system that is targeted to success and support rather than failure and punitive measures; and, resources necessary to do the job.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in dark ink, reading "Chris Gregoire". The signature is written in a cursive, flowing style.

Christine O. Gregoire
Governor